



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

ERIC ANTONIO SAMUEL,
Plaintiff,

vs.

OFFICER LARRY TURNER;
OFFICER SHAWN FELDNER;
and SERGEANT JOHN VALDALISO;
Defendants.

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CIVIL ACTION NO. 8:04-23170-HFF-BHH

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND DENYING DEFENDANTS' MOTION TO DISMISS

This is a Section 1983 action. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (report) of the United States Magistrate Judge in which she suggests that 1) Defendants' motion to dismiss be denied and 2) Defendants be allowed to file a motion for summary judgment with supporting affidavits, if any, within thirty (30) days of this Order. The report is made in accordance with 28 U.S.C. § 636, and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *See Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the report on July 27, 2005. Defendants failed to file any objections to the report. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the report and the record in this case pursuant to the standards set forth above, the Court adopts the report and incorporates it herein. Therefore, it is the judgment of this Court that Defendants' motion to dismiss be **DENIED**. Defendants shall be allowed to file a motion for summary judgment with supporting affidavits, if any, within thirty (30) days of the filing of this Order.

IT IS SO ORDERED.

Signed this 18th day of August, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd

HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has a right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.